

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**KARI L MCCONAHAY**  
Claimant

**APPEAL NO. 20A-UI-03960-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARE INITIATIVES**  
Employer

**OC: 03/22/20**  
**Claimant: Appellant (2R)**

Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours  
Iowa Code § 96.4-3 – Able and Available  
Iowa Code § 96.7(2)A(2) – Partial Benefits  
Iowa Code § 96.19(38) – Total and Partial Unemployment  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Federal Law PL 116-136 Sec. 2104 – Eligibility for Federal Pandemic unemployment Compensation

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated May 6, 2020, reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on May 29, 2020. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate.

**ISSUES:**

Whether claimant is still employed at the same hours and wages?

Whether claimant is eligible to receive partial benefits?

Whether claimant is able and available for work?

Has claimant been overpaid state benefits?

Is claimant eligible to receive Federal Pandemic Unemployment Compensation?

**FINDINGS OF FACT:**

The claimant currently works for Care Initiatives, a base period employer, on a PRN basis after being hired to work part time. Claimant also has other wages in the base period history.

Claimant was hired by employer part time, but often worked the equivalent of full time hours. On or around March 1, 2020 claimant alerted employer that she would need to switch from the large number of hours to being on PRN status as a result of claimant obtaining new full time

work with Brandon's Body Shop. As a result, claimant has not worked for employer since obtaining the new job, as employer has had no PRN hours for claimant.

Claimant stated that she worked for her new employer two weeks and received a paycheck prior to being laid off for Covid concerns.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is partially unemployed and the employer is relieved of benefit charges.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Code section 96.7(2)a(2)(a), (b), and (c) provides:

2. Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

(b) An employer's account shall not be charged with benefits paid to an individual who left the work of the employer voluntarily without good cause attributable to the employer or to an individual who was discharged for misconduct in connection with the individual's employment, or to an individual who failed without good cause, either to apply for available, suitable work or to accept suitable work with that employer, but shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

(c) The amount of benefits paid to an individual, which is solely due to wage credits considered to be in an individual's base period due to the exclusion and substitution of calendar quarters from the individual's base period under section 96.23, shall be charged against the account of the employer responsible for paying the workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17, or responsible for paying indemnity insurance benefits.

The claimant in this matter is able and available for work with Care Initiatives, but has been placed on a different contract and schedule. Whereas claimant had been working a set schedule for an extended period of time, a PRN schedule is basically on call or as needed. Under PRN, a person is contacted when work is available and that person can work if they can fit the open time into their schedule. Benefits are allowed.

This matter will be remanded to the fact finder for a determination of whether claimant had quit her job in order to take new employment with Brandon's Body Shop and had then been rehired under a different (PRN) contract. If this is the case, claimant's subsequent layoff from Brandon's may allow claimant to receive benefits while employer's account would not be charged.

**DECISION:**

The May 6, 2020, reference 01, decision is reversed and remanded to the fact finder on the potential separation issue. Benefits are allowed, provided claimant is otherwise eligible.



---

Blair A. Bennett  
Administrative Law Judge

June 10, 2020  
Decision Dated and Mailed

bab/sam